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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,258	06/26/2001	Tadashi Ezaki	SONYJP-131	2603

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EXAMINER

CERVETTI, DAVID GARCIA

ART UNIT	PAPER NUMBER
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2136

MAIL DATE	DELIVERY MODE
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06/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/869,258

Applicant(s)

EZAKI, TADASHI

Examiner

David G. Cervetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-20,22-38 and 40-63 is/are pending in the application.
- 4a) Of the above claim(s) 41-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-20,22-38 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed March 12, 2007, have been fully considered.
2. Claims 1, 2, 4-20, 22-38, and 40 are pending and have been examined. Claims 3, 21, 39, and 64 have been cancelled. Claims 41-63 have been withdrawn.

Response to Amendment

3. Applicant's arguments with respect to the prior art have been considered but are moot in view of the new ground(s) of rejection.

4. **Applicant has not traversed the examiner's use of official notice with regards to the claimed limitations found in claims 11, 15, 29, and 33, these features are taken by the examiner to be admitted prior art since the applicant has not adequately challenged the examiner's use of official notice (see MPEP 2144.03(c), 2144.04).**

Continued Examination Under 37 CFR 1.114

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Claim Objections

6. Claim 37 is objected to because of the following informalities: "in information processing method", perhaps "an information processing method" was intended. Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. **Claims 1, 2, 4-20, 22-38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawara et al. (US Patent 6,278,836, hereinafter Kawara), and further in view of Kirovski et al. (US Patent 6,952,774, hereinafter Kirovski).**

Regarding claims 1, 19, and 37, Kawara teaches

- an information processing device for controlling an output of contents **(abstract)**, characterized by comprising:
- a digital watermark information detection section for detecting a survival rate of digital watermark information distributed with said contents **(col. 10, lines 30-67); and**
- a control section for controlling the output of said contents on the basis of said survival rate **(col. 12, lines 1-44);**
- wherein said survival rate is a value determined according to a predetermined reference value and the amount of detected watermark over a predetermined period **(col. 12, lines 1-44);**

Kawara does not expressly disclose detecting the survival rate of the digital watermark or that said control section controls the output of said contents on the basis of copy control information when said survival rate is higher than a predetermined threshold, and controls the output of said contents on the basis of usage information when said survival rate is lower than said predetermined threshold. However, Kawara

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provides "auxiliary information for controlling reproduction of main information" (**col. 10, lines 35-48**) and Kirovski teaches performing different controls based on different watermarks (**abstract**). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include in that "auxiliary information" information that may help in order to control reproduction and to use a threshold to determine what processing to perform. One of ordinary skill in the art would have been motivated to perform such a modification because it was well known in the art to use auxiliary information to provide copyright protection (**Kawara, col. 13, line 50 to col. 14, line 45**) and to control different elements of digital copyrights, namely usage and copies (**Kirovski, col. 6, lines 1-60**).

Regarding claims 2, 20, and 38, the combination of Kawara and Kirovski teaches characterized in that the output contents are to be recorded on a recording medium (**Kawara, col. 35, lines 27-61**).

Regarding claims 4, 22, and 40, the combination of Kawara and Kirovski teaches characterized in that said digital watermark information contains output qualification information, said digital watermark information detection section detects said output qualification information, and said control section controls the output of said contents on the basis of said output qualification information (**Kawara, col. 13, line 50 to col. 14, line 45**).

Regarding claims 5 and 23, the combination of Kawara and Kirovski teaches characterized in that said output qualification information is information for restricting the quality of output of said contents (**Kawara, col. 17, lines 30-67, col. 18, lines 1-9**).

Regarding claims 7 and 25, the combination of Kawara and Kirovski teaches characterized in that said control section inhibits the output of said contents when said survival rate is less than or equal to said predetermined threshold (**Kawara, col. 13, line 50 to col. 14, line 45**).

Regarding claims 9 and 27, the combination of Kawara and Kirovski teaches characterized in that said control section restricts the output of said contents on the basis of said output qualification information when said survival rate is less than or equal to said predetermined threshold (**Kawara, col. 13, line 50 to col. 14, line 45**).

Regarding claims 8, 10, 26, and 28, the combination of Kawara and Kirovski teaches characterized in that said threshold is included in said digital watermark information (**Kawara, col. 13, line 50 to col. 14, line 45**).

Regarding claims 11, 15, 29, and 33, the combination of Kawara and Kirovski teaches characterized in that said digital watermark information comprises a digital watermark information strong to compression and information weak to compression, and controls the output of said contents a digital watermark said control section on the basis of the presence or absence of said digital watermark information strong to compression and the survival rate of said digital watermark information weak to compression (**Kirovski, abstract**). Furthermore, these features have been admitted per applicant to have been conventional and well known to digital rights management systems at the time the invention was made.

Regarding claims 12 and 30, the combination of Kawara and Kirovski teaches characterized in that said digital watermark information strong to compression contains

the output qualification information, said digital watermark information detection section detects said output qualification information, and said control section controls the output of said contents on the basis of said output qualification information (**Kawara, col. 13, line 50 to col. 14, line 45**).

Regarding claims 13 and 31, the combination of Kawara and Kirovski teaches characterized in that said output qualification information is information for restricting the quality of output of said contents (**Kawara, col. 17, lines 30-67, col. 18, lines 1-9**).

Regarding claims 6, 14, 24, and 32, the combination of Kawara and Kirovski teaches characterized in that said output qualification information is information for defining a data compression method to be applied to said output contents (**Kawara, col. 10, lines 35-48**).

Regarding claims 17 and 35, the combination of Kawara and Kirovski teaches characterized in that said control section restricts the output of said contents on the basis of said output qualification information when said survival rate is less than or equal to said predetermined threshold (**Kawara, col. 13, line 50 to col. 14, line 45**).

Regarding claims 16, 18, 34, and 36, the combination of Kawara and Kirovski teaches characterized in that said threshold is included in said digital watermark information strong to compression (**Kawara, col. 13, line 50 to col. 14, line 45**).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mitui et al. (US Patent 6,937,553) teach restricting quality of recorded contents, Cox et al. (US Patent 6,154,571) teach using robust watermarking.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David G. Cervetti whose telephone number is (571)272-5861. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on (571)272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DGC

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5,29,07